

103^D CONGRESS
1ST SESSION

S. 1736

To amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993

Mr. DASCHLE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy and Environment Tax Act of 1993”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise provided, whenever in this Act an amendment or re-
8 peal is expressed in terms of an amendment to, or repeal
9 of, a section or other provision, the reference shall be con-

1 sidered to be made to a section or other provision of the
 2 Internal Revenue Code of 1986.

3 **TITLE I—INCENTIVES FOR RE-**
 4 **NEWABLE ENERGY RE-**
 5 **SOURCES**

6 **SEC. 101. ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM**
 7 **TAX.**

8 (a) IN GENERAL.—Subsection (c) of section 38 (re-
 9 lating to limitation based on amount of tax) is amended
 10 by redesignating paragraph (3) as paragraph (4) and by
 11 inserting after paragraph (2) the following new paragraph:

12 “(3) ALCOHOL FUELS CREDIT MAY OFFSET
 13 MINIMUM TAX.—

14 “(A) IN GENERAL.—In the case of the al-
 15 cohol fuels credit—

16 “(i) this section and section 39 shall
 17 be applied separately with respect to such
 18 credit, and

19 “(ii) for purposes of applying para-
 20 graph (1) to such credit—

21 “(I) 50 percent of the tentative
 22 minimum tax shall be substituted for
 23 the tentative minimum tax under sub-
 24 paragraph (A) thereof, and

1 “(II) the limitation under para-
 2 graph (1) (as modified by subclause
 3 (I)) shall be reduced by the credit al-
 4 lowed under subsection (a) for the
 5 taxable year (other than the alcohol
 6 fuels credit).

7 “(B) ALCOHOL FUELS CREDIT.—For pur-
 8 poses of this subsection, the term ‘alcohol fuels
 9 credit’ means the portion of the credit under
 10 subsection (a) which is attributable to the alco-
 11 hol fuels credit determined under section
 12 40(a).”.

13 (b) CONFORMING AMENDMENT.—Subclause (II) of
 14 section 38(c)(2)(A)(ii) is amended by inserting “or the al-
 15 cohol fuels credit” after “empowerment zone employment
 16 credit”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendment made by
 19 this section shall apply to taxable years beginning
 20 after December 31, 1993.

21 (2) EXCEPTION.—The amendment made by this
 22 section shall not apply to—

23 (A) any credit which was determined in a
 24 taxable year, or

1 (B) the portion of any credit which is car-
 2 ried back to a taxable year,
 3 beginning on or before December 31, 1993.

4 **SEC. 102. ENERGY CREDIT ALLOWED AGAINST MINIMUM**
 5 **TAX.**

6 (a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE
 7 REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—Sub-
 8 section (c) of section 38 (relating to limitation based on
 9 amount of tax), as amended by section 101, is amended
 10 by redesignating paragraph (4) as paragraph (5) and by
 11 inserting after paragraph (3) the following new paragraph:

12 “(4) SPECIAL RULES FOR ENERGY CREDIT.—

13 “(A) IN GENERAL.—In the case of a C
 14 corporation, this section and section 39 shall be
 15 applied separately—

16 “(i) first with respect to so much of
 17 the credit allowed by subsection (a) as is
 18 not attributable to the energy credit, and

19 “(ii) then with respect to the energy
 20 credit.

21 “(B) RULES FOR APPLICATION OF ENERGY
 22 CREDIT.—

23 “(i) IN GENERAL.—In the case of the
 24 energy credit, in lieu of applying the pre-
 25 ceding paragraphs of this subsection, the

amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

“(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term ‘net chapter 1 tax’ means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

“(C) ENERGY CREDIT.—For purposes of this subsection, the term ‘energy credit’ means the credit allowable under subsection (a) by reason of section 48(a).”.

(b) CONFORMING AMENDMENTS.—

(1) Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 101(b), is amended by striking “or the alcohol fuels credit” and inserting “, the alcohol fuels credit, or the energy credit”.

(2) Subclause (II) of section 38(c)(3)(A)(ii), as added by section 101(a), is amended by inserting “or the energy credit” after “alcohol fuels credit”.

(c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendment made by
 2 this section shall apply to taxable years beginning
 3 after December 31, 1993.

4 (2) EXCEPTION.—The amendment made by this
 5 section shall not apply to—

6 (A) any credit which was determined in a
 7 taxable year, or

8 (B) the portion of any credit which is car-
 9 ried back to a taxable year,
 10 beginning on or before December 31, 1993.

11 **SEC. 103. TAX CREDIT FOR BIODIESEL FUELS.**

12 (a) IN GENERAL.—Section 40 (relating to credit for
 13 alcohol used as a fuel) is amended by adding at the end
 14 the following new subsection:

15 “(i) SPECIAL RULES FOR BIODIESEL.—

16 “(1) IN GENERAL.—In the case of biodiesel
 17 used as a component of, or replacement for, diesel
 18 fuel (as defined in section 4083(a)(3))—

19 “(A) the biodiesel shall be treated in the
 20 same manner as alcohol for purposes of this
 21 section, and

22 “(B) subsection (h) shall apply in comput-
 23 ing the amount of any credit under this section
 24 with respect to the biodiesel.

1 “(2) BIODIESEL.—For purposes of this sub-
 2 section, the term ‘biodiesel’ means a liquid derived
 3 from biological materials (other than alcohol) for use
 4 in compression ignition engines.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to biodiesel produced, and sold or
 7 used, in taxable years beginning after December 31, 1993.

8 **SEC. 104. REPEAL OF ALCOHOL FUEL CREDIT INCOME IN-**
 9 **CLUSION FOR BIODIESEL AND CERTAIN AL-**
 10 **COHOLS.**

11 (a) IN GENERAL.—Section 87 (relating to inclusion
 12 in income of the alcohol fuels credit) is amended by adding
 13 at the end the following new subsection:

14 “(b) EXCEPTION FOR BIODIESEL AND CERTAIN AL-
 15 COHOL-BASED ETHERS.—Subsection (a) shall not apply
 16 to any portion of the alcohol fuel credit determined for
 17 the taxable year under section 40(a) which is attributable
 18 to—

19 “(1) biodiesel (as defined in section 40(i)(2)),

20 “(2) ethanol which is used to produce ethyl ter-
 21 tiary butyl ether, or

22 “(3) alcohol which is used to produce any ether
 23 derived from alcohol in a chemical reaction in which
 24 there is no significant loss in the energy content of
 25 the alcohol.”.

1 (b) CONFORMING AMENDMENT.—Section 87 is
2 amended by striking “Gross” and inserting:

3 “(a) IN GENERAL.—Gross”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 1993.

7 **SEC. 105. SMALL WIND TURBINES ELIGIBLE FOR ENERGY**
8 **CREDIT.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 48(a)(3) (defining energy property) is amended by strik-
11 ing “or” at the end of clause (i), by redesignating clause
12 (ii) as clause (iii), and by inserting after clause (i) the
13 following new clause:

14 “(ii) equipment which uses wind en-
15 ergy to generate electricity but only if such
16 equipment has a rated capacity of 50 kilo-
17 watts or less and is not primarily used in
18 the trade or business of producing elec-
19 tricity for sale to an unrelated person, or”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to property placed in service
22 after December 31, 1993.

1 **SEC. 106. CLARIFICATION OF APPLICATION OF ENERGY**
2 **CREDIT TO PROPERTY USING SOLAR EN-**
3 **ERGY.**

4 (a) IN GENERAL.—Paragraph (3) of section 48(a)
5 (relating to energy credit) is amended by adding at the
6 end the following: “For purposes of subparagraph (A)(i),
7 equipment shall be treated as using solar energy if its av-
8 erage annual use of energy from sources other than solar
9 energy does not exceed 50 percent of its total energy
10 input.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to property placed in service
13 after December 31, 1993.

14 **TITLE II—INCENTIVES TO PRO-**
15 **MOTE ENERGY CONSERVA-**
16 **TION**

17 **SEC. 201. ENERGY CONSERVATION EXPENDITURES BY**
18 **ELECTRIC AND GAS UTILITIES.**

19 (a) IN GENERAL.—Part VI of subchapter B of chap-
20 ter 1 (relating to itemized deductions for individuals and
21 corporations) is amended by inserting after section 197
22 the following new section:

23 **“SEC. 198. ENERGY CONSERVATION EXPENDITURES BY**
24 **ELECTRIC AND GAS UTILITIES.**

25 “(a) GENERAL RULE.—In the case of an electric or
26 gas utility, there shall be allowed as a deduction for the

1 taxable year an amount equal to the energy conservation
2 expenditures paid or incurred by the taxpayer during such
3 taxable year.

4 “(b) ENERGY CONSERVATION EXPENDITURES.—For
5 purposes of this section, the term ‘energy conservation ex-
6 penditures’ means expenditures for—

7 “(1) subsidies provided directly or indirectly to
8 customers for the purchase, installation, or modifica-
9 tion of—

10 “(A) any device or service primarily de-
11 signed to reduce consumption of electricity, nat-
12 ural gas, or steam or to improve the manage-
13 ment of energy demand, or

14 “(B) any specially defined energy property
15 (as defined in section 136(c)(2)(A)),

16 “(2) energy use consulting and audits of com-
17 mercial, residential, and industrial properties, or

18 “(3) administrative, promotional, and other
19 costs associated with expenditures described in para-
20 graph (1) or (2).

21 Such term shall not include any expenditure taken into
22 account in determining the basis of any tangible property
23 which is owned by the taxpayer and which is of a character
24 subject to the allowance for depreciation.

1 “(c) ELECTRIC OR GAS UTILITY.—For purposes of
2 this section, the term ‘electric or gas utility’ means any
3 corporation engaged in the furnishing or sale of electric
4 energy, natural gas, or steam if the rates for such furnish-
5 ing or sale have been established or approved by a State
6 or political subdivision thereof, by any agency or instru-
7 mentality of the United States, or by a public utility or
8 public service commission or other similar body of any
9 State or political subdivision thereof or of the District of
10 Columbia.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Paragraph (1) of section 263(a) is amended
13 by striking “; or” at the end of subparagraph (F)
14 and inserting a comma, by striking the period at the
15 end of subparagraph (G) and inserting “, or”, and
16 by adding at the end the following new subpara-
17 graph:

18 “(H) expenditures for which a deduction is
19 allowed under section 198.”.

20 (2) The table of sections for part VI of sub-
21 chapter B of chapter 1 is amended by adding at the
22 end the following new item:

“Sec. 198. Energy conservation expenditures by electric and gas
utilities.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to expenditures paid or incurred
 3 in taxable years beginning after December 31, 1980.

4 **SEC. 202. LARGE ELECTRIC TRUCKS, VANS, AND BUSES ELI-**
 5 **GIBLE FOR DEDUCTION FOR CLEAN-FUEL VE-**
 6 **HICLES.**

7 (a) DEDUCTION ALLOWED IN LIEU OF CREDIT.—
 8 Subsection (c) of section 30 is amended by adding at the
 9 end the following new paragraph:

10 “(3) EXCEPTION FOR TRUCKS, VANS, AND
 11 BUSES.—The term ‘qualified electric vehicle’ shall
 12 not include any vehicle described in subclause (I) or
 13 (II) of section 179A(b)(1)(A)(iii).”.

14 (b) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to property placed in service after
 16 December 31, 1993.

17 **SEC. 203. CREDIT FOR PROPERTY USED IN CERTAIN AGRI-**
 18 **CULTURE-RELATED ACTIVITIES TO CONTROL**
 19 **ENVIRONMENTAL POLLUTION AND FOR SOIL**
 20 **AND WATER CONSERVATION EXPENDITURES.**

21 (a) IN GENERAL.—Section 46 (relating to amount of
 22 investment credit) is amended by striking “and” at the
 23 end of paragraph (2), by striking the period at the end
 24 of paragraph (3) and inserting “, and”, and by adding
 25 at the end the following new paragraph:

1 “(4) in the case of an eligible taxpayer (as de-
 2 fined in section 48(c)), the agricultural environ-
 3 mental credit.”.

4 (b) AGRICULTURAL ENVIRONMENTAL CREDIT.—Sec-
 5 tion 48 is amended by adding at the end the following
 6 new subsection:

7 “(c) AGRICULTURAL ENVIRONMENTAL CREDIT.—

8 “(1) IN GENERAL.—For purposes of section 46,
 9 in the case of an eligible taxpayer, the agricultural
 10 environmental credit for any taxable year is equal to
 11 the lesser of—

12 “(A) the sum of—

13 “(i) 15 percent of the aggregate bases
 14 of all agricultural environmental properties
 15 placed in service by the taxpayer during
 16 such taxable year, and

17 “(ii) 15 percent of the amount allowed
 18 as a deduction under section 175 (deter-
 19 mined without regard to paragraph (4)(B))
 20 for such taxable year, or

21 “(B) the lesser of—

22 “(i) \$15,000, or

23 “(ii) the excess of—

24 “(I) \$150,000, over

1 “(II) the amount of the credit
2 taken into account under this section
3 by the taxpayer for taxable years pre-
4 ceding the taxable year.

5 “(2) ELIGIBLE TAXPAYER.—

6 “(A) IN GENERAL.—For purposes of this
7 subsection, the term ‘eligible taxpayer’ means
8 any taxpayer primarily engaged in a farming-
9 related business.

10 “(B) FARMING-RELATED BUSINESS.—For
11 purposes of this subsection, the term ‘farming-
12 related business’ means—

13 “(i) a farming business (as defined in
14 section 263A(e)(4)),

15 “(ii) a trade or business of mixing fer-
16 tilizers from purchased fertilizer materials,
17 and

18 “(iii) a trade or business of the whole-
19 sale distribution of animal feeds, fertilizers,
20 agricultural chemicals, pesticides, seeds, or
21 other farm supplies (other than grains).

22 “(3) AGRICULTURAL ENVIRONMENTAL PROP-
23 PERTY.—

24 “(A) IN GENERAL.—For purposes of this
25 subsection, the term ‘agricultural environmental

1 property' means any new identifiable treatment
2 facility—

3 “(i) which is used in a farming-related
4 business for the primary purpose of com-
5 plying with Federal, State, and local envi-
6 ronmental laws dealing with the abatement
7 or control of water, soil, or atmospheric
8 pollution or contamination by removing, al-
9 tering, disposing, storing, or preventing the
10 creation or emission of pollutants, contami-
11 nants, wastes, or heat, and

12 “(ii) which does not significantly—

13 “(I) increase the output or capac-
14 ity, extend the useful life, or reduce
15 the total operating costs of plant or
16 property to which such facility relates,
17 or

18 “(II) alter the nature of any
19 manufacturing or production process
20 or facility.

21 “(B) NEW IDENTIFIABLE TREATMENT FA-
22 CILITY.—The term ‘new identifiable treatment
23 facility’ has the meaning given such term by
24 section 169(e)(4)(A), determined by substitut-

1 ing ‘December 31, 1993’ for ‘December 31,
2 1968’ each place it appears.

3 “(4) SPECIAL RULES.—

4 “(A) COORDINATION WITH ENERGY AND
5 REHABILITATION CREDITS.—This subsection
6 shall not apply to—

7 “(i) any property to the extent the
8 basis of such property is attributable to
9 qualified rehabilitation expenditures (as de-
10 fined in section 47(c)(2)), or

11 “(ii) energy property.

12 “(B) COORDINATION WITH DEDUCTION
13 FOR SOIL AND WATER CONSERVATION EXPEND-
14 ITURES.—The amount which would (but for
15 this subparagraph) be allowed as a deduction
16 under section 175 for any taxable year shall be
17 reduced by the lesser of the amount of the cred-
18 it determined under paragraph (1)(A)(ii) for
19 the taxable year or the credit allowed under
20 paragraph (1) for the taxable year.

21 “(C) COORDINATION WITH AMORTIZATION
22 OF POLLUTION CONTROL FACILITIES.—This
23 subsection shall not apply to any property to
24 the extent an election is made under section

1 169 with respect to the basis of such prop-
2 erty.”.

3 (c) CLERICAL AMENDMENTS.—

4 (1) The section heading for section 48 is
5 amended to read as follows:

6 **“SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; AGRI-
7 CULTURAL ENVIRONMENTAL CREDIT.”**

8 (2) The item relating to section 48 in the table
9 of sections for subpart E of part IV of subchapter
10 A of chapter 1 is amended to read as follows:

 “Sec. 48. Energy credit; reforestation credit; agricultural environ-
 mental credit.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to periods after December 31,
13 1993, under rules similar to the rules of section 48(m)
14 of the Internal Revenue Code of 1986 (as in effect on the
15 day before the date of the enactment of the Revenue Rec-
16 onciliation Act of 1990).

17 **SEC. 204. AMORTIZATION OF POLLUTION CONTROL FACILI-
18 TIES.**

19 (a) IN GENERAL.—Paragraph (1) of section 169(d)
20 (defining certified pollution control facility) is amended by
21 striking “January 1, 1976” and inserting “January 1,
22 1994”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to additions to basis in taxable
3 years beginning after December 31, 1993.

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